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Attorneys for Defendants Morgan Stanley
(sued as Morgan Stanley Dean Witter & Co., Inc.)
Morgan Stanley Investment Advisors Inc.,
Charles A. Fiumefreddo and James F. Higgins

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		
JOHN MARSHALL EVERETT, PAMELA A.	:	
KRAMER, and WALTER W. LAWRENCE,	:	
on Behalf of Themselves and all Others Similarly	:	
Situated,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	05 CV 00296 (DAB)
	:	ECF CASE
	:	
MICHAEL BOZIC, EDWIN J. GARN,	:	
WAYNE E. HEDIEN, DR. MANUEL H.	:	
JOHNSON, JOSEPH J. KEARNS,	:	
MICHAEL E. NUGENT, FERGUS REID,	:	
CHARLES A. FIUMEFREDDO, JAMES F.	:	
HIGGINS, MORGAN STANLEY DEAN	:	
WITTER & CO., INC., MORGAN STANLEY	:	
INVESTMENT ADVISORS, and	:	
JOHN DOES NO. 1 through 100,	:	
	:	
Defendants.	:	
-----X		

NOTICE OF MOTION TO DISMISS THE COMPLAINT

PLEASE TAKE NOTICE, that upon the accompanying memorandum of law,
dated June 13, 2005, and all of the prior pleadings and papers in this action, defendants Charles

A. Fiumefreddo and James F. Higgins will move this Court, before the Honorable Deborah A.

Batts, at the United States Courthouse, 500 Pearl St., New York, NY 10007-1312, for an order:

- (1) dismissing the above-captioned complaint with prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure; and
- (2) for such other and further relief as the Court may deem just and proper.

Dated: New York, New York
June 13, 2005

SHEARMAN & STERLING LLP

By: /s/ Brian H. Polovoy
Steven F. Molo (SM 1818)
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